

Ordinance No:
Subdivision Regulation Amendment: 05-01
Concerning: MPDUs – finding of financial
infeasibility
Draft No. & Date: 3 – 5/5/05
Introduced: March 22, 2005
Public Hearing: April 26, 2005
Adopted: May 18, 2005
Effective: April 1, 2005

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Silverman

AN AMENDMENT to the Montgomery County Code for the purpose of:

- Clarifying the process for a finding of financial infeasibility with respect to moderately priced dwelling units in certain subdivisions.

By amending the following section of the Montgomery County Subdivision Regulations, Chapter 50 of the County Code:

Section 50-35 “Preliminary subdivision plan — Approval procedure”

EXPLANATION: ***Boldface** indicates a heading or a defined term.*
*Underlining indicates text that is added to existing laws
by the original text amendment.*
*[Single boldface brackets] indicate text that is deleted from
existing law by the original text amendment.*
*Double underlining indicates text that is added to the text
amendment by amendment.*
*[[Double boldface brackets]] indicate text that is deleted
from the text amendment by amendment.*
** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

*The County Council for Montgomery County, Maryland, sitting as the District Council
for that portion of the Maryland-Washington Regional District in Montgomery County,
Maryland, approves the following ordinance:*

Sec. 1. Chapter 50 is amended as follows:

50-35. Preliminary subdivision plan — Approval procedure.

* * *

(1) *Relation to Master Plan.* In determining the acceptability of a preliminary plan submitted under this Chapter, the Planning Board must consider the applicable master plan, sector plan or urban renewal plan. A preliminary plan must substantially conform to the applicable master plan, sector plan or urban renewal plan, including maps and text, unless the Planning Board finds that events have occurred to render the relevant master plan, sector plan or urban renewal plan recommendation no longer appropriate.

However, to [accommodate] permit the construction of all MPDUs required under Chapter 25A, including any bonus density units, on-site, a preliminary plan may exceed, in proportion to the MPDUs [provided under Chapter 25A] [[that would]] to be built on site, including any bonus density units, any applicable residential density or building height limit established in a master plan or sector plan if a majority of an Alternative Review Committee composed of the Director of the Department of Housing and Community Affairs, the Executive Director of the Housing [Opportunity] Opportunities Commission, and the [Chair of the] Director of Park and Planning [Board], or their respective designees, find that [construction of] a development that includes all required MPDUs on site, including any bonus density units, would not be financially feasible within the constraints of any applicable density or height limit.

If [[a finding of MPDU financial infeasibility is made]] the Committee finds that the development would not be financially

feasible, the Planning Board must [determine] decide which if any of the following measures authorized [under] by Chapter 59 or Chapter 50 should be approved to [accomplish] assure the construction of [the] all required MPDUs on site:

- (1) exceeding an applicable height limit, lower than the maximum height in the zone, that is recommended in a master plan or sector plan [[height limit]],
- (2) exceeding an applicable residential density limit, lower than the maximum density in the zone, that is recommended in a master plan or sector plan [[residential density limit]], or
- (3) locating public use space off-site.

Sec. 2. Effective date. This ordinance takes effect as of April 1, 2005.

This is a correct copy of Council action.

Linda M. Lauer

Clerk of the Council

Approved

Douglas M. Duncan, County Executive Date